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10/019,195	06/03/2002	Hans-Jurgen Hannig	LSP-4	6251
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EXAMINER				
GARCIA, ERNESTO				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/019,195

Applicant(s)

HANNIG ET AL.

Examiner

ERNESTO GARCIA

Art Unit

3679

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-38 is/are rejected.
- 7) ☒ Claim(s) 39-44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

The indicated allowability of claim 33 is withdrawn in view of Moriau et al., 6,006,486, who teach the subject matter previously indicated to be allowable. A rejection based on the reference of record follows below.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The drawings were received on June 10, 2008. These drawings are acceptable.

Specification

The amendments filed on May 7, 2007 and June 16, 2004 are objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

on the amendment filed on May 7, 2007, the recitation "and four narrow sides around the edges of the panel" on the seventh paragraph starting on line 16 of page 9 is

nowhere found in the original disclosure. Applicants cannot rely on Figure 13 since such figure is not an original figure. Figure 13 is a new figure which is not supported as originally filed. Further, this description provides new matter for a panel that is square rather than being rectangular as described on page 13, line 30; and,

on the amendment filed on June 16, 2004, Figure 13 is new matter along with the description of Figure 13 that the profiles of Figure 2 and the profiles of Figure 6 are in one panel. Nowhere is there support that indicates that the profiles 42 and 43 are along the wide sides as well as the profiles 4a and 4b being on the narrow sides. According to the original disclosure, the profiles 42 and 43 are in the narrow sides (see original disclosure at page 15, lines 9, 23, 24, and 30) in one species and the profiles 4a and 4b are in the same narrow sides in another species (see original disclosure at page 11, line 22). This is also evident by the amendment to the description of Figure 13 filed on March 9, 2005. Here, the description is inaccurate and unsupported because a rectangular does not have four narrow sides but rather two narrow sides and two wide sides. Furthermore, according to the specification, the profiles 4a and 4b are in the narrow sides, i.e., the long sides of the rectangle according to convention, and not in the short sides of the rectangle as applicants are intending to describe.

Applicants argue that Figure 13 is fully supported by the specification as is the description on page 18 of the substitute specification. In response, this has not been found persuasive since Figure 13 and the description on page 18 are not original. Applicant makes reference to the bottom of page 5 and going over the third paragraph

on page 6. In response, it is unclear whether this is in reference to the original specification or the substitute specification. In either case, the examiner reviewed both specifications as the texts do not correspond. The examiner is still not persuaded since the original specification mentions at page 8, line 8, that "The panels are then only joined at the short narrow sides" followed with the recommendation of using hook elements at the short narrow sides. Applicants are required to cancel the new matter in the reply to this Office Action.

The disclosure is objected to because of the following informalities:

on page 6, first paragraph, the term "narrow side" is still used and requires correction. Appropriate correction is required.

Claim Objections

Claims 33, 35, 37, 39, and 41 are objected to because of the following informalities:

regarding claims 33 and 39, --fastening-- should be inserted before "system" in line 2;

regarding claims 33 and 39, "can be hooked" in line 13 should be --hook-- and --inclined-- should be inserted before "retaining" in line 30;

regarding claim 35 and 41, --inclined-- should be inserted before "retaining" in line 3, --the-- should be inserted before "complementary" in line 4, and "can be hooked" in lines 4-5 should be --hook--; and,

regarding claims 37 and 43, --the-- should be inserted before "two" in line 4. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 112

Claims 33-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 33 and 39, the meets and bounds of the claim is still unclear. The preamble indicates that the system is "for fastening at least a first and a second panel". However, since the first panel and the second panel make up the system the claim cannot state that the system is for fastening the panel since the panels are the system.

Regarding claims 36 and 42, the recitation "in the assembled condition bears against the second panel at least in the region of the upper portion of the edge of the second panel" in lines 6-9 is unclear. Note that this appears to be redundant.

Regarding claim 37, the recitation "intermediate spaces" in line 3 makes unclear whether one of those spaces is the space as recited in claim 33, line 40. Further, the recitation "with clearance" in line 3 appears redundant since "spaces" inherently are clearances.

Regarding claims 34, 35, and 38, the claims depend from claim 33 and therefore are indefinite.

Regarding claims 40, 41, 43, and 44, the claims depend from claim 39 and therefore are indefinite.

Claim Rejections - 35 USC § 103

Claims 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Choppe, FR-2,278,876, in view of Moriau et al., 6,006,486.

Regarding claim 33, Choppe discloses, in the figures unlabeled, a fastening system comprising a first panel **1** and a second panel **1** (see English abstract which uses the term "tiles" thus there are at least two tiles). At least one pair of oppositely disposed retaining profiles is arranged at edges of the first panel and the second panel. The oppositely disposed retaining profiles complement each other. The oppositely

retaining profiles of the first panel and the second panel comprise complementary hook elements **E** that hook one into the other. The complementary hook elements comprise a first hook projection **E** and a second hook projection **E**. The first hook projection is connected to the first panel by a first leg on an upper portion of the edge of the first panel. The first hook projection has an inclined retaining surface. The first hook projection is reduced from a free end of the first hook projection towards the first leg. The second hook projection is connected to the second panel by a second leg on a lower portion of the edge of the second panel. The second hook projection has an inclined retaining surface such that the second hook projection is reduced from a free end of the second hook projection towards the second leg. In an assembled condition, the inclined retaining surface of the first hook projection bears against the inclined retaining surface of the second hook projection. The free end of the second hook projection bears against the first leg at the upper portion of the first panel. However, Choppe fails to disclose a space provided between the free end of the first hook projection and the second leg at the lower portion of the second panel.

Moriau et al. teach, in Figure 23, a space **81** provided between a free end (near 33) of a first hook projection **9** and a second leg **43** at the lower portion of a second panel **1** (left side) to provide chambers for dust (col. 11, lines 66 to col. 12, line 4). Therefore, as taught by Moriau et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a space between the free end of

the first hook projection and the second leg at the lower portion of the second panel of Choppe to collect dust.

Regarding claim 34, given the modification, the first leg projects approximately perpendicular from the edge of the first panel. The first hook projection faces towards the underside of the first panel. The second leg projects approximately perpendicular from the opposite edge of the second panel. The second hook projection faces towards the top side of the second panel.

Regarding claim 35, given the modification, the inclined retaining surfaces of the hook projections engage each other such that the complementary hook projections hook one into the other only by elastic deformation.

Regarding claim 36, Choppe discloses the end of the first hook projection at the upper portion of the first hook projection at the upper portion of the first panel bears against the second panel at least in the region of the upper portion of the edge of the second panel. However, Choppe fails to disclose a clearance provided between the end of the second hook projection at the lower portion of the second panel and the edge of the first panel. Again, Moriau et al. teach, in Figure 23, a clearance **81** provided between the end of the second hook projection **34** at the lower portion of the second panel 1 (left panel) and the edge of the first panel (right panel) to provide chambers for dust (col. 11, lines 66 to col. 12, line 4). Therefore, as taught by Moriau et al., it would

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have been obvious to one of ordinary skill in the art at the time the invention was made to provide a clearance provided between the end of the second hook projection at the lower portion of the second panel and the edge of the first panel of Choppe to collect dust.

Regarding claim 37, Choppe, as modified, discloses the space forms an adhesive pocket. Note that there is no requirement that adhesive be present and thus the duct chamber can be an adhesive pocket.

Regarding claim 38, Choppe, as modified, fails to disclose the panels made substantially of MDF, HDF, or chipboard material. Applicants are reminded that making panels of MDF, HDF, or chipboard material is an obvious modification to resist wear. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the panels of MDF, HDF, or chipboard material to prolong the panels from wearing.

Allowable Subject Matter

Claims 39-44 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 39, the prior art of record does not disclose or suggest a system comprising a first panel and a second panel having at least one pair of oppositely disposed retaining profiles having complementary hook elements comprising a first hook projection and a second hook projection each having an inclined retaining surface (lines 17-18 and 23-26) such that the hook projection is reduced from a free towards a leg (line 18-20 and 24-26) in combination with a space provided between a free end of the second hook projection and a first leg connected to the first panel at the upper portion of the first panel (lines 39-43). The closest prior art, Choppe, FR-2278876, teaches the inclined retaining surfaces and the reduced hook projections from the free end towards the leg. Moriau et al. only teach a space at the hook projections at the lower portion of the first panel. There's no motivation to reverse the connection since such panel would be exposed to traffic and thus not attractive to collect dust using the chambers at the lower portion; and,

regarding claims 40-44, these claims depend from claim 39.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Freeman, GB-647,812, and Fuller, 3,921,312, show inclined retaining surfaces that reduce from a free end of the hook projections towards

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respective legs. Ballas, EP-220,389, shows another space and a leg that bears at the free end against a leg.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. G./

Examiner, Art Unit 3679

July 17, 2008

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679